

§ 286.140 What special provisions apply to victims of domestic violence?

(a) Tribes electing the Family Violence Option (FVO) must certify that they have established and are enforcing standards and procedures to:

(1) Screen and identify individuals receiving TANF assistance with a history of domestic violence, while maintaining the confidentiality of such individuals;

(2) Refer such individuals to counseling and supportive services; and

(3) Provide waivers, pursuant to a determination of good cause, of TANF program requirements to such individuals for so long as necessary in cases where compliance would make it more difficult for such individuals to escape domestic violence or unfairly penalize those who are or have been victimized by such violence or who are at risk of further domestic violence.

(b) Tribes have broad flexibility to grant waivers of TANF program requirements, but such waivers must:

(1) Identify the specific program requirement being waived;

(2) Be granted based on need as determined by an individualized assessment by a person trained in domestic violence and redeterminations no less than every six months;

(3) Be accompanied by an appropriate services plan that:

(i) Is developed in coordination with a person trained in domestic violence;

(ii) Reflects the individualized assessment and any revisions indicated by any redetermination; and

(iii) To the extent consistent with paragraph (a)(3) of this section, is designed to lead to work.

(c) If a Tribe wants us to take waivers that it grants under this section into account in deciding if it has reasonable cause for failing to meet its work participation rates or comply with the established time limit on TANF assistance, has achieved compliance or made significant progress towards achieving compliance with such requirements during a corrective compliance period, the waivers must comply with paragraph (b) of this section.

(d) We will determine that a Tribe has reasonable cause for failing to meet its work participation rates or to

comply with established time limits on assistance if—

(1) Such failures were attributable to good cause domestic violence waivers granted to victims of domestic violence;

(2) In the case of work participation rates, the Tribe provides evidence that it achieved the applicable rates except with respect to any individuals who received a domestic violence waiver of work participation requirements. In other words, the Tribe must demonstrate that it met the applicable rates when such waiver cases are removed from the calculation of work participation rate;

(3) In the case of established time limits on assistance, the Tribe provides evidence that it granted good cause domestic violence waivers to extend time limits based on the need for continued assistance due to current or past domestic violence or the risk of further domestic violence, and individuals and their families receiving assistance beyond the established time limit under such waivers do not exceed 20 percent of the total number of families receiving assistance.

(e) We may take good cause domestic violence waivers of work participation or waivers which extend the established time limits for assistance into consideration in deciding whether a Tribe has achieved compliance or made significant progress toward achieving compliance during a corrective compliance period.

(f) Tribes electing the FVO must submit the information specified at § 286.275(b)(7).

§ 286.145 What is the penalty if an individual refuses to engage in work activities?

If an individual refuses to engage in work activities in accordance with the minimum work participation requirements specified in the approved TFAP, the Tribe must apply to the individual the penalties against individuals that were established in the approved TFAP.